

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

AMGUARD INSURANCE COMPANY,)
)
 Plaintiff,) Case No. 4:20-cv-01853-MTS
)
 vs.)
)
 T & J ENTERPRISES, INC., *et al.*,)
)
 Defendants.)

SECOND AMENDED CASE MANAGEMENT ORDER – TRACK 2: STANDARD

Pursuant to the Civil Justice Reform Act Expense and Delay Reduction Plan, the Differentiated Case Management Program of the United States District Court for the Eastern District of Missouri, the Joint Motion for Extension of Time, Doc. [94], and the status conference held this same date,

IT IS HEREBY ORDERED that the following schedule shall apply in this case and will be modified *only* upon **exceptional circumstances**:

I. Scheduling Plan

1. This case was assigned to Track 2 (Standard).
2. Remaining discovery shall proceed in the following manner:
 - (a) Plaintiff must sit for its Federal Rule of Civil Procedure 30(b)(6) deposition, or corporate representative deposition, no later than **Thursday, January 19, 2023**. Any Defendant wishing to conduct such a deposition must provide Plaintiff notice of the deposition no later than **Monday, January 09, 2023**.
 1. Because of the repeated delays from Plaintiff in this case, including delays in securing Plaintiff's deposition, see, *e.g.*, Doc. [84] ¶¶ 18–20, the Court will **sanction** Plaintiff with any allowable **sanction** under Federal Rule of Civil Procedure 37(b)(2)(A), including **striking Plaintiff's pleadings or dismissing Plaintiff's case** in its entirety, if Plaintiff does not produce a proper designate for deposition by this deadline.

- (b) Absent good cause shown, the limits of ten (10) depositions per side and twenty-five (25) interrogatories per side should apply in this case.
- (c) Motions to compel or to quash shall be pursued in a diligent and timely manner, but they may be filed **only after** a party has informally alerted Chambers of the issue, including all other parties on any communication, and waiting for Chambers either to hold an informal conference or instruct the parties that they may proceed in briefing the issue(s).
- (d) The parties shall complete all discovery no later than **Wednesday, February 15, 2023**.

3. This case has been referred to alternative dispute resolution, and the parties completed mediation.

4. Any motions to dismiss, motions for judgment on the pleadings, motions for summary judgment, or motions to exclude testimony pursuant to *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), or *Kuhmo Tire Co. Ltd. v. Carmichael*, 526 U.S. 137 (1999), must be filed no later than **Wednesday, March 01, 2023**. The Response to any such motion must be filed within **twenty-one (21) days** after the filing of the motion, and any Reply must be filed within **ten (10) days** after the Response is filed with the Court.

- (a) Any memorandum in support of one of these motions must contain a table of authorities and a table of contents.

II. Order Relating to Trial

This action is set for a **JURY** trial on **August 14, 2023**, at 8:30 a.m. in Courtroom Fourteen South (14-S). This is a two-week docket.

In this case, unless otherwise ordered by the Court, the parties shall, not less than 21 days prior to the date set for trial:

1. **Joint Stipulation**: Meet and jointly prepare and file with the Clerk a Joint Stipulation of all uncontested facts, which may be read into evidence subject to any objections of any party set forth in said stipulation.

2. **Witnesses**:

- (a) Deliver to opposing party, and file with the Clerk of Court, a list of all proposed witnesses, identifying those witnesses who will be called to testify and those who may be called to testify.
- (b) Except for good cause shown, no party will be permitted to call any witnesses not listed in compliance with this Order.

3. **Exhibits:**

- (a) Mark for identification all exhibits to be offered in evidence at the trial (Plaintiffs to use Arabic numerals and Defendant to use letters, e.g., Pltf-1, Deft-A, or Pltf Jones-1, Deft Smith-A, if there is more than one plaintiff or defendant), and deliver to the opposing party and file with the Clerk a list of such exhibits, identifying those that will be introduced into evidence and those that may be introduced. The list shall clearly indicate for each business record whether the proponent seeks to authenticate the business record by affidavit or declaration pursuant to Federal Rule of Evidence 902(11) or 902(12).
- (b) Submit said exhibits or true copies thereof, and copies of all affidavits or declarations pursuant to Federal Rule of Evidence 902(11) or 902(12), to the opposing party for examination. Prior to trial, the parties shall stipulate which exhibits may be introduced without objection or preliminary identification and shall file written objections to all other exhibits.
- (c) Except for good cause shown, no party will be permitted to offer any exhibits not identified or not submitted by said party for examination by the opposing party in compliance with this Order. Any objections not made in writing at least ten (10) days prior to trial may be considered waived.

4. **Depositions, Interrogatory Answers, and Requests for Admission:**

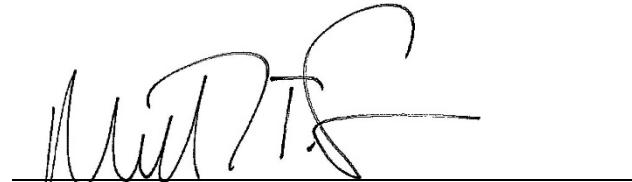
- (a) Deliver to the opposing party and file with the Clerk a list of all interrogatory answers or parts thereof and depositions or parts thereof (identified by page and line numbers), and answers to requests for admissions proposed to be offered in evidence. At least ten (10) days before trial, the opposing party shall state in writing any objections to such testimony and shall identify any additional portions of such depositions not listed by the offering party that the opposing party proposes to offer.
- (b) Except for good cause shown, no party will be permitted to offer any interrogatory answer, or deposition or part thereof, or answer to a request for admissions not listed in compliance with this Order. Any objections not made as above required may be considered waived.

5. **Trial Brief:** Submit to the Court and the opposing party a trial brief stating the legal and factual issues and authorities on which the parties rely and discussing any anticipated substantive or procedural problems.

6. **Motions in Limine**: File all motions in limine at least fourteen (14) days before trial.

The failure to comply with any part of this Order may result in the imposition of sanctions. The failure by Plaintiff to sit for its Federal Rule of Civil Procedure 30(b)(6) deposition, or corporate representative deposition, will result in sanctions up to and including dismissal of this case.

Dated 7th day of December 2022.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE